IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.839 of 2006

Shri Ratnakar D. Gaikwad — Petitioner
Vs.
Sau. Sunita R. Gaikwad & anr. — Respondents

Ms.Gauri Jadhav for petitioner.
Ms.P.P.Tendulkar i/b. Mrs.Karnik for resp.no.1.
Mr.Y.M.Nakhawa, APP for State.

CORAM: B.H.MARLAPALLE, J.

July 23, 2007.

P.C.

. Heard Mrs.Jadhav, the learned counsel for the petitioner-husband. The respondent-wife had filed Maintenance Application No.243 of 2003 which came to be rejected by the learned Judicial Magistrate, First Class at Nashik on 3/8/2005 and, therefore, she filed Criminal Revision Application No.484 of 2005 which has been allowed by the learned III Ad-hoc Addl. Sessions Judge, Nashik on 24/2/2006. Hence this petition.

. The parties were married on 18/4/2002. The husband is an employee of Bhavna Chandak High School. The wife complained before the learned Magistrate that there was ill-treatment after about 3-4 days of

her married life and the husband started ill-treating and beating her. It was also alleged against her and her brother that they had committed a theft in the house. Consequently her baggage was checked and under such conditions she left the matrimonial home on 4/9/2002 and joined her parents. The husband issued a legal notice and, therefore, she went back to the husband's house on 10/9/2002. At this point of time she was already in her family way and the husband had already filed complaint against her with Bhadrakali Police Station at Nashik upon which the police had recorded her statement. On 27/12/2002 she had complained to the Mahila Hakka Sanrakshan Samiti and did not go to the husband's house because he started demanding cash amount to buy fridge and TV etc. The learned Magistrate rejected the application for maintenance on the grounds that the wife could not give the details of the dates and copy of the complaint she had filed with the police or with the Mahila Hakka Sanrakshan Samiti. The learned Magistrate was of the opinion that unless all the details of various dates were provided, the story of the wife was not believable that she was driven out of the house and she was neglected and refused to be maintained by the husband.

. On appreciation of the evidence of the wife and her father before the learned Magistrate, the learned Judge of the Revision Court did not agree with the reasoning. It was noted by the Revision Court that from 10/9/2002 to 25/12/2002 she was in the company of her husband and on 25/12/2002 she was driven out of the house as she could not fulfil the monetary demand. The Revision Court noted that the proceedings under Section 125 of Cr.P.C. are quasi judicial in nature and in such proceedings it is expected that both the parties should produce the best possible evidence in the Court. Only because a copy of the complaint filed with the Mahila Hakka Sanrakshan Samiti was not produced, it could not be believed that the husband had taken all steps to maintain the wife and he had not neglected her. The Revision Court noted that the husband possessed the qualification of M.Com. and he was having financial resources to give maintenance to the wife. Therefore, the revision application was allowed and maintenance at the rate of Rs.750/- per month from the date of filing of the application with the learned Magistrate was directed to be paid.

. The view taken by the Revision Court cannot be termed either as perverse or grossly erroneous so as to call for interference in this petition under Article 227 of the Constitution. It must also be noted that as per the order dated 17/11/2006 passed by this Court, the husband was to deposit the arrears of maintenance to the tune of Rs.26,000/- and this was precondition to hear this petition further. Even as on today, no steps have been taken by the husband to remit any amount of maintenance as allowed by the Revision Court and the order passed by this Court on 17/11/2006 has been violated.

. Writ petition is, therefore, rejected summarily.

(B.H.MARL